

¹ 5 U.S.C. § 8101 *et seq.*

right lower back pain as a result of hitting a punching bag with his baton at full force during a baton recertification exercise. He did not stop work.

In a letter dated January 16, 2015, OWCP advised appellant that the evidence of record was insufficient to establish his claim. It requested that he respond to specific questions in order to substantiate that the November 5, 2014 incident occurred as alleged and that he provide medical evidence to establish a diagnosed condition causally related to the alleged incident. Appellant was afforded 30 days to submit this additional evidence.

Appellant provided a January 21, 2015 report from Dr. Jeffrey Wise, a Board-certified orthopedic surgeon. Dr. Wise related that appellant informed him that he had injured his lower back in November 2014 when he used a baton on a fake dummy during routine training. Appellant told Dr. Wise that he had tightness and pain in the right side of the midlumbar area, but the symptoms improved after about one and a half weeks. Dr. Wise conducted an examination and reported paraspinal muscle tenderness on the right side of appellant's lumbar spine and full range of motion. Straight leg raise testing was negative. Motor and sensory examinations were within normal limits. Dr. Wise related that a January 21, 2015 x-ray scan showed a pars fracture at L4 on the right and mild disc degeneration at L5-S1. He diagnosed lumbar facet syndrome and lumbosacral disc degeneration.

OWCP denied appellant's claim in a decision dated March 6, 2015. It accepted that the employment incident occurred as alleged and that the medical evidence of record provided valid diagnoses of lumbar facet syndrome and lumbar disc degeneration, but denied his claim because the medical evidence of record did not establish that his diagnosed back conditions were causally related to the accepted incident. OWCP noted that Dr. Wise had not provided a clear opinion on the cause of his back condition.

On November 10, 2015 appellant requested reconsideration.

Appellant submitted various medical reports in support of his request for reconsideration. He was treated by Dr. Faisal Siddiqui, a Board-certified orthopedic surgeon, who indicated in an August 20, 2015 report that appellant had complained of lower back pain at work after participating in a training exercise on November 15, 2014. Appellant noted that he heard a pop and felt pain in his right low back. Upon physical examination of appellant's lumbar spine, Dr. Siddiqui observed decreased range of motion and no evidence of scoliosis. Neurological examination revealed decreased reflex. Dr. Siddiqui diagnosed thoracic/lumbosacral neuritis and sciatica.

In an unsigned August 31, 2015 lumbar spine magnetic resonance imaging (MRI) scan, an unknown provider noted mild degenerative changes at L2-3, L3-4, and L4-5.

In a September 10, 2015 report, Sohail Safdari, a certified physician assistant, related that on November 15, 2014 appellant injured his lower back while training at work. He noted that he reviewed an August 31, 2015 lumbar MRI scan, which showed mild degenerative changes at L2-3, L3-4, and L4-5, and no disc herniation or spinal stenosis. Mr. Safdari reported that examination of appellant's lumbar spine showed decreased range of motion and no evidence of

scoliosis. Neurological examination demonstrated decreased reflex. Mr. Safdari diagnosed lumbosacral/thoracic neuritis, lumbar spinal stenosis, and sciatica.

In a decision dated January 19, 2016, OWCP denied modification of the March 6, 2015 decision. It found that the medical evidence of record was insufficient to establish that appellant's back conditions were causally related to the accepted November 5, 2014 employment incident.

Appellant requested reconsideration on February 18, 2016. He submitted a February 11, 2016 report from Dr. Siddiqui who related that appellant's current symptoms were definitively related to his work-related incident. Dr. Siddiqui noted that appellant had no prior symptoms before the incident. He opined that appellant had significant radicular symptoms that were "directly related to [appellant's] work-related injury on November 5, 2014." Dr. Siddiqui opined that the mechanism of the injury led to appellant's current symptoms.

By decision dated May 26, 2016, OWCP denied modification of the January 19, 2016 decision. It found that the medical evidence of record was insufficient to establish that appellant's lumbar conditions were causally related to the accepted November 5, 2014 employment incident. OWCP determined that Dr. Siddiqui's February 11, 2016 report did not establish a causal relationship between appellant's diagnosed lumbar condition and the accepted November 5, 2014 work incident.

On June 28, 2016 appellant again requested reconsideration.

Appellant provided a June 13, 2016 report from Dr. Siddiqui who noted that appellant had been under his care since August 20, 2015. Dr. Siddiqui related that appellant was a federal police officer, who had injured himself while participating in training on November 5, 2014. He reported that upon physical examination appellant had increased Achilles reflex and decreased range of motion of the lumbar spine. Dr. Siddiqui related that an August 31, 2015 lumbar spine MRI scan showed loss in disc height and desiccation of intervertebral disc and a mild disc bulge present at the L2-3 level, a disc bulge at the L3-4 level, and a mild disc bulge and facet disease causing mild neural foraminal encroachment at the L4-5 level. He opined that appellant's diagnoses of lumbar radiculopathy and spinal stenosis of the lumbar region were directly related to his work-related injury on November 5, 2014. Dr. Siddiqui noted that appellant had no symptoms prior to this accident. He explained that the mechanism of the injury led to his current symptoms.

In a decision dated September 28, 2016, OWCP denied modification of the May 26, 2016 decision. It found that the medical evidence of record was insufficient to establish that appellant sustained a lumbar injury as a result of the accepted November 5, 2014 employment incident. OWCP determined that the new June 13, 2016 medical report lacked sufficient medical rationale explaining how appellant's lumbar conditions were causally related to the accepted incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence,³ including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether “fact of injury” has been established.⁵ There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.⁶ Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.⁷ An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability or condition relates to the employment incident.⁸

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.⁹ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.¹⁰ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician’s opinion.¹¹

² *Id.*

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁴ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁶ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁷ *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

⁹ *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

¹¹ *James Mack*, 43 ECAB 321 (1991).

ANALYSIS

Appellant alleged that on November 5, 2014 he injured his back when he hit a punching bag with his baton during a baton recertification exercise. OWCP accepted that the employment incident occurred as alleged and found that the evidence confirmed a diagnosed back condition. It denied appellant's claim, however, finding insufficient medical evidence of record to establish that his back conditions were causally related to the November 5, 2014 employment incident.

The Board finds that appellant has failed to meet his burden of proof to establish that his back condition resulted from the accepted employment incident.

In the January 21, 2015 report, Dr. Wise indicated that appellant injured his lower back in November 2014 when he hit a fake dummy with a baton during routine training at work. He noted that appellant's initial mid-lumbar pain, improved a week and a half following the incident. Dr. Wise provided examination findings and related that an x-ray scan showed a pars fracture at L4 on the right and mild disc degeneration at L5-S1. He diagnosed lumbar facet syndrome and lumbosacral disc degeneration. Dr. Wise did not, however, offer an opinion as to whether the November 5, 2014 work incident caused or contributed to appellant's two diagnosed back conditions. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹² This report, therefore, is insufficient to establish appellant's claim.

The unsigned August 31, 2015 report of an MRI scan is of no probative value as the author is not known to be a physician.¹³

Appellant was treated by Dr. Siddiqui. In his August 20, 2015 report, Dr. Siddiqui related that appellant heard a pop and felt pain in his low back after participating in a training exercise. He provided examination findings and diagnosed thoracic/lumbosacral neuritis and sciatica. In a February 11, 2016 report, Dr. Siddiqui noted that appellant did not have symptoms prior to the incident. He opined that appellant's radicular symptoms were directly related to his November 5, 2014 work-related injury and explained that the mechanism of injury as described by appellant led to the current symptoms. In a June 13, 2016 letter, Dr. Siddiqui reported that appellant's diagnoses of lumbar radiculopathy and spinal stenosis of the lumbar region were directly related to his November 5, 2014 work-related injury. He explained that the mechanism of the injury led to his current symptoms.

Although Dr. Siddiqui provided an affirmative opinion on causal relationship, he did not support his opinion with any medical rationale. He failed to provide any medical explanation of how hitting a punching bag with a baton at work caused or contributed to his two diagnosed back conditions.¹⁴ The need for rationalized medical opinion based on medical rationale is especially important in this case as the evidence suggests that appellant had preexisting degenerative

¹² *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

¹³ See *J.W.*, Docket No. 17-0870 (issued July 12, 2017); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁴ See *B.T.*, Docket No. 13-0138 (issued March 20, 2013).

changes to his lumbar spine. The Board notes Dr. Wise related in his January 2015 report that x-ray findings indicated mild disc degenerative at L5-S1. Appellant's August 31, 2015 lumbar spine MRI scan also noted mild degenerative changes at L2-3, L3-4, and L4-5. In light of his degenerative lumbar condition, rationalized medical evidence is particularly important to explain how his current back condition resulted from the November 5, 2014 work incident.¹⁵ The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.¹⁶ Because Dr. Siddiqui has not provided such medical rationale to support his opinion on causal relationship, his reports are insufficient to establish appellant's claim.

The September 10, 2015 report by the physician assistant, Mr. Safdari, lacks probative value and is likewise insufficient to establish appellant's claim because physician assistants are not considered physicians as defined under FECA and their medical opinions regarding diagnosis and causal relationship are of no probative value.¹⁷

On appeal appellant alleges that Dr. Siddiqui clearly opined that his back issues were definitely related to his November 5, 2014 employment incident. He indicated that he had experienced lower back pain every single day for two years since his injury. As found above, however, Dr. Siddiqui's reports are insufficient to meet appellant's burden of proof to establish causal relationship. The issue of causal relationship is a medical question that must be established by a probative medical opinion from a physician.¹⁸ The mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.¹⁹ The Board therefore finds that appellant did not meet his burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a back injury causally related to the accepted November 5, 2014 employment incident.

¹⁵ See *W.N.*, Docket No. 16-1722 (issued March 22, 2017).

¹⁶ *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

¹⁷ 5 U.S.C. § 8101(2); *Roy L. Humphrey*, 57 ECAB 238 (2005). Section 8102(2) of FECA provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law; see also *Sean O'Connell*, 56 ECAB 195 (2004) (physician assistants are not considered physicians as defined under FECA).

¹⁸ *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, 57 ECAB 137 (2005).

¹⁹ *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

ORDER

IT IS HEREBY ORDERED THAT the September 28, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 13, 2017
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board